

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JOSEPH MICHAEL WILLIAMS,

4 Plaintiff

Case No. 2:21-cv-00277-GMN-DJA

ORDER

5 v.

6 S. ENNIS-WRIGHT, *et al.*,

7 Defendants
8

9 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983
10 by a prisoner incarcerated at the High Desert State Prison (“HDSP”). On February 22,
11 2021, the Court ordered Plaintiff to file a signed amended complaint and a fully complete
12 application to proceed *in forma pauperis* or pay the full filing fee of \$402 on or before April
13 23, 2021. (ECF No. 4). The April 23, 2021 deadline has now expired, and Plaintiff has
14 not filed a signed amended complaint or a fully complete application to proceed *in forma*
15 *pauperis*, paid the full \$402 filing fee, or otherwise responded to the Court’s order.

16 District courts have the inherent power to control their dockets and “[i]n the
17 exercise of that power, they may impose sanctions including, where appropriate . . .
18 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
19 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
20 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
21 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
22 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
23 1992) (affirming dismissal for failure to comply with an order requiring amendment of
24 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal
25 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
26 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
27 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
28 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with

1 local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey
3 a court order, or failure to comply with local rules, the court must consider several factors:
4 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
6 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
7 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
8 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the Court finds that the first two factors, the public's interest in expeditiously
10 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
11 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
13 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
14 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
15 disposition of cases on their merits—is greatly outweighed by the factors in favor of
16 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
17 the court's order will result in dismissal satisfies the "consideration of alternatives"
18 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
19 F.2d at 1424.

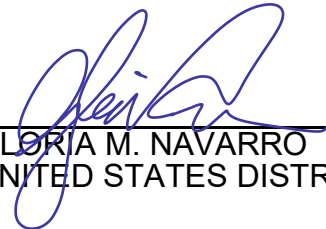
20 The Court's order requiring Plaintiff to file a signed amended complaint and a fully
21 complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or
22 before April 23, 2021 expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff does
23 not file a signed amended complaint on or before April 23, 2021, this case will be subject
24 to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new
25 case number, when Plaintiff is able to file a signed amended complaint. (ECF No. 4 at
26 3). The Court's order further stated: "IT IS FURTHER ORDERED that, if Plaintiff does
27 not file a fully complete application to proceed *in forma pauperis* with all three documents
28 or pay the full \$402 filing fee for a civil action on or before April 23, 2021, this case will be

1 subject to dismissal without prejudice for Plaintiff to refile the case with the Court, under
2 a new case number, when Plaintiff has all three documents needed to file a complete
3 application to proceed *in forma pauperis* or pays the the full \$402 filing fee.” (*Id.* at 4).
4 Thus, Plaintiff had adequate warning that dismissal would result from noncompliance with
5 the Court’s order to file a signed amended complaint and a fully complete application to
6 proceed *in forma pauperis* or pay the full \$402 filing fee on or before April 23, 2021.

7 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
8 based on Plaintiff’s failure to file a signed amended complaint and a fully complete
9 application to proceed *in forma pauperis* or pay the full \$402 filing fee in compliance with
10 this Court’s order dated February 22, 2021. (ECF No. 4).

11 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter
12 judgment accordingly. No other documents may be filed in this now-closed case.

13 DATED: April 30, 2021

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16 GLORIA M. NAVARRO
17 UNITED STATES DISTRICT JUDGE
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